IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE FIRST DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 21092 of 2004

Between:

P. Rami Reddy Memorial College of Pharmacy, Kadapa rep by the President of Sri Saraswathi Educational Society, Sri G. Eswar Reddy S/o Govinda Reddy

..... PETITIONER

AND

1 The Director of Technical Education and Convenor, EAMCET-2004 (Admissions) Sankethika Vidya Bhavan, Masab Tank, Hyderabad-28
2 The Secretary, Technical Education, Government of A.P., Secretariat Buildings, Hyderabad

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, order or direction more particularly Writ of Mandamus directing the respondents to allot 51 students for admission in B.Pharmacy course under Convenor's quota for the academic year 2004-2005, declaring the action of the first respondent in adjusting 17 excess seats which were filed in during the academic year 2003-2004 in the year 2004-2005 as arbitrary and illegal.

Counsel for the Petitioner : MR. M.N.NARASIMHA REDDY

Counsel for the Respondents : GP FOR EDUCATION

The Court made the following :

THE HON'BLE MS. JUSTICE G.ROHINI

WRIT PETITION NO.21092 OF 2004

ORDER:

The petitioner is a College of Pharmacy being run by Saraswathi Educational Society, Kadapa. It is stated that the college has been approved by the All India Council for Technical Education (AICTE) and is affiliated to Jawaharlal Nehru Technological University (JNTU), Hyderabad. The petitioner states that the AICTE has accorded approval for Undergraduate Degree Level Course in Pharmacy with annual intake of 40 students by its order dated 25-06-2003. However, by letter dated 21-10-2003 the 1st respondent – Director of Technical Education and Convenor for EAMCET-2004 had sent a list of 49 students directing the principal of the petitioner College to admit them in the I-year B.Pharmacy Course. Subsequently, by letter dated 31-10-2003 two other students were directed to be admitted under Convenor's quota. Accordingly, the said students were given admission in the petitioner college. Thus, though the approved annual intake for the academic year 2003-04 was only

40 students, out of which the Convenor is entitled to allot 34 students under the Convenor's quota, the Convenor has allotted all together 51 students to the petitioner college. The petitioner claims that consequently they had to increase the staffing pattern by appointing more Lecturers apart from providing additional accommodation and other facilities. It is not in dispute that all the students so admitted for the academic year 2003-04 were issued Hall-tickets and were permitted to appear for the annual examinations. While so, for the academic year 2004-05, the petitioner made an application to AICTE for increase of sanctioned strength from 40 to 60 and the same was granted by AICTE by proceedings dated 20-06-2004. However, as against the 51 students required to be allotted under the Convenor's Quota of 85%, the 1st respondent has allotted only 34 students for the academic year 2004-05. When the petitioner made a request for allotment of students in accordance with the sanctioned strength of 60, the petitioner was informed by the Convenor by letter dated 6-11-2004 that the 17 excess seats filled during the academic year 2003-04 are to be adjusted to avoid objections from the University as well as Pharmacy Council of India, Delhi and as such the request for filling-up 51 seats for the academic year 2004-05 is deferred. Aggrieved by the said action of the respondents, this writ petition is filed seeking a Writ of Mandamus directing the respondents to allot 51 students for admission in B.Pharmacy Course under Convenor's quota for the academic year 2004-05 and to declare that the action of the 1st respondent in adjusting 17 excess seats filled in during the academic year 2003-04 for the year 2004-05 as arbitrary and illegal.

On behalf of the respondents, the Assistant Director in the Office of the Director of Technical Education filed a counter-affidavit stating that the AICTE has accorded approval to the petitioner college with annual intake of 40 students for the academic year 2003-04 with a specific condition that no excess admissions shall be made by the institution during any academic year and also stating that in the event of contravention or non-compliance of any of the stipulated conditions, action leading to reducing the intake or no admission or withdrawal of approval may be initiated by AICTE and the liability arising out of such action will be solely that of the Management of the Institution. It is further stated that during the academic year 2003-04, 51 students were allotted by the Convenor as against 34 in to B-Pharmacy course of petitioner college due to some technical error which was not brought to the

notice of the respondents immediately by the petitioner. Having kept quiet for whole academic year, the petitioner brought the said fact to the notice of the respondents only when the University refused to accept the examination fee of the 17 students who were given admission in excess to the sanctioned strength. Immediately, a letter was addressed to the Vice-Chancellor of the University with a request to permit all the candidates i.e., the 51 students allotted by the Convenor as well as 6 students admitted under the Management quota to appear for the examination as a special case on One Time Measure Basis as the students will suffer. Accordingly, the Principal of College was informed that the excess 17 seats allotted during the year 2003-04 would be adjusted during the present academic year 2004-05. The plea of the petitioner that they have increased staffing pattern and provided additional accommodation has been denied and it is stated that there is no change in the total intake of 1st and 2nd years put together and there is no financial loss as claimed by the petitioner.

I have heard the learned Counsel for the petitioner and the learned Government Pleader appearing for Higher Education, and perused the material on record.

It is not in dispute that for the academic year 2003-04, the approved intake by the AICTE was 40. Out of the said sanctioned strength, the Convenor has to allot 34 students to fill up 85% of Convenor's quota and the remaining 6 seats are to be filled up by the Management. However, admittedly the Convenor has allotted 51 students i.e, 17 students in excess of the Convenor's quota. The said fact has been admitted by the 1st respondent and it has been explained that it is due to a technical error. It is also not in dispute that when JNTU has raised an objection to permit the students that were admitted in excess of the sanctioned strength to appear for the examinations, the 1st respondent intervened and on a request made by the 1st respondent, the JNTU permitted the said students to appear for the examinations.

So far as the academic year 2004-05 is concerned, it is relevant to note that the AICTE by proceedings dated 26-06-2004 increased the approved intake from 40 to 60. Thus, according to the petitioner, the 1st respondent ought to have allotted 51

students as against the 85% of the Convenor's quota, however the 1st respondent has restricted the allotment to 34 on the ground that the 17 excess seats allotted during the year 2003-04 required to be adjusted and thus the petitioner is entitled to fill up only 43 seats as against sanctioned strength of 60 i.e, 34 seats against the Convenor's quota and 9 seats against the Management Quota for the academic year 2004-05. May be that the admission of excess students during the academic year 2003-04 was only due to lapses on the part of the 1st respondent and the petitioner cannot be found fault with for exceeding the sanctioned strength. However, as rightly contended by the learned Government Pleader, the petitioner has not suffered any loss since there is no change in the total intake of both the academic years put together. As a matter of fact, while permitting the students for examinations, the petitioner was also informed by letter dated 17-08-2004 that the excess seats will be adjusted during the academic year 2004-05. Having failed to raise any objection, the petitioner cannot now be permitted to contend that they shall be permitted to admit the students as per the total sanctioned strength as approved by the AICTE for the year 2004-05. Admittedly, either for the academic year 2003-04 or the academic year 2004-05 the admission of students against the 15% of Management Quota has not been reduced. For the academic year 2003-04, six students were admitted and for the academic year 2004-05, nine students were permitted to be admitted. The adjustment of excess students in the academic year 2004-05 is only against Convenor's Quota Hence, the petitioner cannot be said to have suffered any prejudice.

The Writ Petition is devoid of any merit and the same is accordingly dismissed. No costs.

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1st April, 2005.

gbs

To

1 The Director of Technical Education and Convenor, EAMCET-2004 (Admissions) Sankethika Vidya Bhavan, Masab Tank, Hyderabad-28
2 The Secretary, Technical Education, Government of A.P., Secretariat Buildings, Hyderabad

3. Two CCs to G.P. for School Education, High Court of AP Bldgs, Hyderabad (Out)

4. 2 CD copies